

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1562 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SATTARBHAI VALIBHAI MEMON

Versus

STATE OF GUJARAT

Appearance:

MR JV JAPEE for Petitioner

PUBLIC PROSECUTOR for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 02/03/98

ORAL JUDGEMENT

Rule. Learned APP Shri A J Desai waives service of rule on behalf of respondent no.1 and 2. By consent of learned advocates matter is finally heard.

2. The petitioner has approached under article 226/227 of the Constitution of India challenging the

arbitrary in action on part of respondent no.2 in not forwarding the NC memos alleged to have been issued in respect to motor vehicle owned by the petitioner bearing Registration No. GRN 494 to the competent court for disposal in accordance with law. Shri JV Japee, learned advocate appearing on behalf of the petitioner has alleged that petitioner has been using the said motor vehicle described herein above for his personal business and the officers of Respondent no.2 have been alleging that certain NC memos issued in respect to said vehicle have remained pending in the office and unless the petitioner shall compound the same by making payment of penalty determined by respondent no.2 the authority shall not clear any request made by the petitioner in respect to the said vehicle. It is further submitted by Shri Japee that the Authority has no power to withhold the alleged NC Memo with a view to compel the petitioner to compound the said NC Memos against the will of the petitioner and to pay heavy penalty charged by the concerned authority. That as per the established procedure under the law the Authority is duty bound to forward the NC Memo to the competent court. The petitioner is willing to appear before the court and discharge the due obligation in accordance with law. That respondent no.2 has no reason to withhold the said NC complaint and has unduly interfered with the fundamental rights of the petitioner to carry out his business with the use of subject vehicle and thereby it is necessary to give appropriate direction to the concerned authority.

3. Initially show cause notice was issued pending admission. Learned APP Shri A J Desai, has appeared and waived service on behalf of respondent no.1 & 2. That respondents have failed to file any explanation against the allegation made in the petition and it appears that the act of the respondents withholding NC complaint, if any, issued against the subject vehicle with a view to pressurize the petitioner to compound the same is illegal, arbitrary and against the provisions of law and under such circumstances, I hold that it would be just and proper if appropriate directions are given to respondent no.2. Respondent no.2 is hereby directed to forward pending NC memos if any in respect of the vehicle owned by the petitioner bearing Registration No. GRN 494 to the competent court within 2 weeks from the date of receipt of certified copy of this order. The petitioner shall appear before the competent court and shall discharge the due obligation, if any. Rule is made absolute accordingly. No order as to costs.

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